| Title | Juvenile Dependency: Voluntary Surrender of Custody (amend Cal. Rules of Court, rule 1456; revise form JV-126) |
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| Summary | The proposed amendments and revisions would conform rule 1456 and form JV-126, <i>No Provision for Support</i> , § 300(g), to recently enacted legislation (Stats. 2000, ch. 824). This legislation establishes a new procedure whereby a parent of an infant aged 72 hours or younger may voluntarily surrender physical custody of the child. |
| Source | Family and Juvenile Law Advisory Committee |
| Staff | Christopher Wu, 415-865-7721 |
| Discussion | New legislation (Stats. 2000, ch. 824) has established the procedure whereby a parent with lawful custody of a child aged 72 hours or younger may voluntarily surrender custody of the child. Among other provisions, the statute amended Welfare and Institutions Code sections 300(g) and 361.5(b). |
| | Amended section 300(g) (excerpt attached) now allows the juvenile court to take jurisdiction over a child surrendered pursuant to the statute. The proposed revisions to form JV-126 reflect that statutory change on the appropriate addendum to the juvenile dependency petition form and clarify, through the use of check boxes, the permissible grounds for use of section 300(g). |
| | Amended section 361.5(b) (excerpt attached) now permits the court to make permanency planning decisions regarding the child without offering reunification services to the parent who voluntarily surrendered custody of the child. The proposed amendment to rule 1456 therefore adds voluntary surrender to the list of circumstances in which the juvenile court may proceed directly to permanency planning for the child without offering reunification services to the parent. |
| | The statutory amendments to section 300(g) and section 361.5(b) sunset on December 31, 2005, unless that date is extended or deleted by later enacted legislation. |
| | The texts of the proposed amendment to rule 1456 and revisions to form JV-126 are attached. |
| | Attachments |

Rule 1456 of the California Rules of Court would be amended, effective January 1, 2002, to read:

Rule 1456. Orders of the court 1 2 3 (a)-(e) *** 4 5 (f) [Provisions of reunification services (§ 361.5)] 6 (1)–(4)***7 8 9 (5) Reunification Services need not be provided when the parent has 10 voluntarily relinquished the child and the relinquishment has been 11 filed with the State Department of Social Services. Reunification services need not be provided to a mother, statutorily presumed father, 12 or guardian, if the court finds, by clear and convincing evidence, any 13 14 of the following: 15 (A)-(H) ***16 17 18 (I) The court has found that the child is described by subdivision (g) of 19 section 300, that the child was willfully abandoned by the parent or 20 guardian, and that the abandonment constituted serious danger to 21 the child as defined in section 361.5(b)(9); or that the parent or 22 other person having custody of the child voluntarily surrendered physical custody of the child under section 1255.7 of the Health 23 and Safety Code. 24

CHILD'S NAME:

NO PROVISION FOR SUPPORT
section 300(g)

The child has been left without any provision for support;

Physical custody of the child has been voluntarily surrendered under section 1255.7 of the Health and Safety Code, and the child has not been reclaimed within the 14-day period specified in that section;

The child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or

A relative or another adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been

(State supporting facts concisely, and number them g-1, g-2, g-3, etc.)

unsuccessful.

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Amendments to Welfare and Institutions Code (Stats. 2000, ch. 824) (excerpts)

Section 300. Any child who comes within any of the following descriptions is within the jurisdiction of the juvenile court which may adjudge that person to be a dependent child of the court:

(g) The child has been left without any provision for support; physical custody of the child has been voluntarily surrendered pursuant to Section 1255.7 of the Health and Safety Code and the child has not been reclaimed within the 14-day period specified in subdivision (e) of that section; the child's parent has been incarcerated or institutionalized and cannot arrange for the care of the child; or a relative or other adult custodian with whom the child resides or has been left is unwilling or unable to provide care or support for the child, the whereabouts of the parent are unknown, and reasonable efforts to locate the parent have been unsuccessful.

Section 361.5(b). Reunification services need not be provided to a parent or guardian described in this subdivision when the court finds, by clear and convincing evidence, any of the following:

(9) That the child has been found to be a child described in subdivision (g) of Section 300, that the parent or guardian of the child willfully abandoned the child, and the court finds that the abandonment itself constituted a serious danger to the child; or that the parent or other person having custody of the child voluntarily surrendered physical custody of the child pursuant to Section 1255.7 of the Health and Safety Code. For the purposes of this paragraph, "serious danger" means that without the intervention of another person or agency, the child would have sustained severe or permanent disability, injury, illness, or death. For purposes of this paragraph, "willful abandonment" shall not be construed as actions taken in good faith by the parent without the intent of placing the child in serious danger.